EXHIBIT 4
DATE 02/14/07
HB 578

Explanation of MHESAC Amendments to HB 578

1. MHESAC's Amendment 1 clarifies that the open meeting statutes apply only to "meetings" of the governing board or body of a state issuer rather than "proceedings." The term "proceedings" is different than the term "meeting". The use of the term "proceedings" could create arguments that the open meeting requirements of HB 578 somehow apply to a broader range of activities than the actual open meeting statutes themselves. This amendment adopts language that is consistent with the open meeting statutes, and eliminates the potential confusion regarding what activities of a state issuer must be open.

2. MHESAC's Amendment 2 eliminates the entire proposed change to § 17-5-1302(15), thus removing the references to entities that are not currently "state issuers" from this bill. The changes to § 17-5-1302(15) proposed in HB 578 are not necessary to require MHESAC to comply with Montana's open meeting laws. Further, certain supporters of HB 578 have suggested that the intent of the new language, "and any subsidiaries of, affiliates of, or other entity that manages or services Montana higher education student assistance corporation contracts related to bonds issued under this part", is intended to require specifically Student Assistance Foundation of Montana (the corporation that currently provides management services to MHESAC and services most of MHESAC's student loans) to also comply with the open meeting laws. SAF is a private Montana nonprofit corporation separate from MHESAC, more than half of whose business is servicing student loans for other lenders. We do not believe that such intent is appropriate. The provisions of Title 17, chapter 5, part 13 deal with the allocation of state volume cap in connection with the issuance of private activity bonds, and should thus apply only to entities that are entitled to receive such volume cap. Neither SAF, nor any other "subsidiaries of, affiliates of, or other entity that manages or services Montana higher education student assistance corporation contracts related to bonds issued under this part", are authorized under law to issue private activity bonds and thus would never even apply for volume cap. Including SAF or any other such entity in the definition of state issuer would thus be for the sole purpose of subjecting SAF or other such entity to compliance with the open meeting laws—a purpose having nothing to do with the allocation of state volume cap. Further, it would require SAF or any other such entity, because it provides services to MHESAC, to comply with the open meeting laws. No other state issuer is subject to such a requirement, and shouldn't be inasmuch as such a requirement would severely restrict its ability to contract for services. Removing this language will eliminate any argument that HB 578 is intended to apply to any entities other than MHESAC and other existing state issuers.